federal register

MONDAY, MARCH 27, 1978
PART IV

DEPARTMENT OF TRANSPORTATION

Coast Guard

PUGET SOUND

Tank Vessel Operations

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Subchapter P]

[CGD 78-041]

PUGET SOUND

Tank Vessel Operations

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering issuing regulations governing the operation of tank vessels in the Puget Sound area. This action is taken because on March 6, 1978, the U.S. Supreme Court declared several sections of the State of Washington Tanker Law concerning tanker operation in Puget Sound unconstitutional on the basis of Federal preemption of state law. The Coast Guard is studying the entire scope of tank vessel operation in the Puget Sound area in order to arrive at the best solution for protection against environmental harm resulting from vessel or structure damage, destruction, or loss, and is seeking comments to assist it in making a determination.

DATES: 1. Comments must be received on or before May 12, 1978. 2. Public Hearing: The Coast Guard will hold a public hearing on April 20-21, 1978, beginning at 9 a.m. in the north auditorium, 4th floor, Federal Building, 917 Second Avenue, Seattle, Wash.

ADDRESSES: Comments should be submitteed to Commandant (G-CMC/81), (CGD 78-041), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Tranportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 292-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written views, data, or arguments concerning this advance notice. Written comments whould include the docket number CGD 78-041) and the name and address of the person submitting the comment. All comments received before the expiration of the comment period will be considered before further action is taken.

Interested persons are invited to attend the hearing and present oral or written statements on these proposals. It is requested that anyone desiring to make comments notify Captain Greiner at least ten days before the scheduled date of the public hearing, and specify the approximate length of time needed for the presentation. Comments at the public hearing will normally be heard in the order the request to comment is received. It is urged that a written summary or copy of the oral presentation be included with the request.

DRAFTING INFORMATION

The principal persons involved in drafting this advance notice are: Commander Robert Janecek, Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

BACKGROUND

The Coast Guard originally issued regulations for the Puget Sound Vessel Traffic Service on July 10, 1974 (39 FR 25430). Minor changes were made on June 9, 1977 (42 FR 29481). The Service was established because of congested vessel traffic and hazardous weather conditions.

The State of Washington Tanker Law (Chapter 125, Laws of Washington, 1975, First Extraordinary Session, Wash. Rev. Code § 88.16.170 et seq.) was adopted to regulate certain aspects of the design, size, and movement of tank vessels carrying oil in Puget Sound.

The United States Supreme Court on March 6, 1978, in *Ray* v. *Atlantic Richfield Co.* (No. 76-930) declared several provisions of the State of Washington Tanker Law unconstitutional based on Federal preemption of state law.

On March 14, 1978 (published in the FEDERAL REGISTER on March 23, 1978), the Secretary of Transportation issued an interim navigation rule prohibiting the operation of oil tankers in excess of 125,000 deadweight tons bound for a port or place in the United States in waters of the United States lying east of a straight line extending from Discovery Island Light to New Dungeness Light and to all points in the Puget Sound area north and south of these lights ("designated waters"). This interim rule, which is effective through September 9, 1978, was considered necessary to maintain the de facto level of protection of the navigable waters of Puget Sound and adjacent waters in the State of Washington, and the resources therein, until the possible issuance of additional regulations.

In this advance notice, the Coast Guard is soliciting comments and suggestions from interested parties concerning possible approaches the Coast Guard can take to continue and enhance the protection of the designated waters and vessels operating therein.

FACTORS TO BE CONSIDERED BY THE COAST GUARD

Section 102 of the Ports and Waterways Safety Act of 1972, (33 U.S.C. 1222), requires full consideration of the wide variety of interests which may be affected by the exercise of regulatory authority under the Act. In determining the need for, and the substance of, any rule or regulation the following factors must be considered—

(1) The scope and degree of the hazards;

(2) Vessel traffic characteristics including minimum interference with the flow of commercial traffic, traffic volume, the sizes and types of vessels, the usual nature of local cargoes, and similar factors;

(3) Port and waterway configurations and the differences in geographic, climatic, and other conditions and circumstances;

(4) Environmental factors;

(5) Economic impact and effects;

(6) Existing vessel traffic control systems, services, and schemes; and

(7) Local practices and customs, including voluntary arrangements and agreements within the maritime community.

Specific comments and information concerning these factors, as they apply to Puget Sound and adjacent waters are especially desired.

POSSIBLE REGULATORY APPROACHES

The regulations under consideration would be applicable to tank vessels bound for a port or place in the United States in waters of the United States lying east of a straight line extending from Discovery Island Light to New Dungeness Light and to all points in the Puget Sound area north and south of these lights.

The Coast Guard is aware that various approaches may be taken in possible regulation of tank vessels. Several possible approaches are set out below. The Coast Guard solicitis comments on these approaches, but also welcomes comments and suggestions concerning any other reasonable alternatives including comments concerning the necessity for any regulatory actions at all. Comments are specifically requested on the possible benefits or adverse effects of these regulatory approaches, or on any alternatives being suggested.

The Coast Guard is considering the following as possible approaches:

1. Specifying times of entry into, movement within, or departure from the designated waters.

2. Limiting the size of tank vessels utilizing one or more of the following criteria:

(a) Gross tonnage.

(b) Deadweight tonnage.
(c) Length of vessels.
(d) Breadth of vessels.
(e) Tank size.
(f) Keel clearance.

3. Limiting the speed of tank vessels.

4. Issuing regulations based on the particular operating characteristics, or equipment of the vessel including the number and type of propellers, and the main and emergency propulsion, steering and navigational capabilities of the vessel.

5. Issuing regulations which restrict tank vessel operation during hazardous weather conditions or in hazardous areas.

6. Issuing requirements for tug assistance or tug escort for tank vessels.

7. Issuing regulations governing pilotage requirements.

8. Appraising possible vessel controls and/or requirements based upon specific routes to be taken by the vessels having in mind particular destinations.

Comments are particularly solicited concerning vessel size and its relation to maneuvering capabilities of the vessel; whether recommended limitations should be applied singularly or in combination with other criteria; and which areas within the designated waters are considered especially hazardous to navigation or environmentally sensitive.

(Sec. 104, Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).)

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

MARCH 22, 1978.

[FR Doc. 78-7928 Filed 3-24-78; 8:45 am]

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